

SB309 Gun Confiscation Prohibition (Sen. Joe Balyeat)

Exhibit No. 4
Date 1-31-00
Bill No. SB 309

I represent SD34 – I'm also on the Board of Directors of the MSSA. This bill prohibits the confiscation of firearms in declared emergencies – except for normal police actions where probable cause exists. Why do we need the bill?

Confiscation happened after Katrina in New Orleans; much of it was done by imported police from outside the area who were unfamiliar with local customs, local laws, and local concerns. Many Montanans are very concerned that this sort of gun confiscation doesn't happen here, especially with non-resident imported authorities. And unfortunately, we've already had incidents which are bordering on similarity to the Katrina experience --ranchers near Columbus were apparently required to remove guns from vehicles and leave them at checkpoints when passing roadblocks and returning to their homes in fire areas.

One of the issues here is when, how and if weapons confiscated en mass with no probable cause are ever returned to their rightful owners. One Senator who co-sponsored the bill relayed to me his interesting personal experience as a young first-grader 45 years ago. He had three nice knives, which he was using to demonstrate whittling to classmates during recess. His grade-school principle confiscated the knives; saying the young boy "could have the knives back when he graduated 6th grade." The boy waited anxiously for more than five years. When his sixth grade graduation finely arrived; he went to the principle to ask for the knives back... the principle told him he had no knives to return to him... they had mysteriously disappeared somewhere along the line." While SB309 is dealing with adults and guns, rather than kids and knives; we're attempting to prevent that situation from happening in Montana.

MT has constitutional language touching broadly on these issues:

ARTICLE II

Section 12 – Right to Bear Arms. *The right of any person to keep or bear arms in defense of his own home, person, and property; or in aid of the civil power when thereto legally summoned, shall not be called into question....*

Section 33 -- Importation of Armed Men. *No armed person or persons or armed body of men shall be brought into this state for the preservation of peace, or the suppression of violence, except upon the application of the legislature...*

While MT has constitutional language touching broadly on these issues; statutory law is somewhat silent. As this committee well knows, it is the responsibility of the legislature to flesh out or make application of constitutional provisions with statutory details.

SB309 is not intended to interfere with normal police actions where there is probable cause. With the amended being offered, I believe the bill strikes the necessary balance to not impede normal police operations where weapon confiscation is required, yet protects our second amendment rights in emergencies. You can see the bill has a lot of co-sponsors; men and women in both legislative chambers; and legislators from both sides of the aisle; both parties.

When I approached one Senator, he read the title and said, "Prohibit confiscation of guns in emergencies... well, of course, when do you most need a weapon? --- in emergencies."

With that, I'll sit and let proponents with more expertise than me explain the mechanics of the bill; listen to any opponents wanting amendments; and I reserve the right to close.